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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,849	06/25/2003	Mario Zamora	1894-05000	5532

7590 10/04/2004  
JONATHAN P. OSHA  
1221 MCKINNEY STREET  
SUITE 2800  
HOUSTON, TX 77010

EXAMINER
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JACKSON, ANDRE K

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/603,849

Applicant(s)

ZAMORA ET AL.

Examiner

André K. Jackson

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,5,9-12 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 3,6-8,13,14 and 18-20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1,2,4,5,9-12 and 15-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Opferkuch, Jr. et al.

Regarding claim 1, Opferkuch, Jr. et al. disclose in the patent entitled "Process for the disposal of sewage" a container (11) adapted to contain the fluid; a surface disposed within the container and adapted to urge the solid particles into a well (14) as the solid particles settle within the fluid (Figure 2) and where the well is non-centrally located within the container (Figure 2).

Regarding claim 2, Opferkuch, Jr. et al. disclose where the container includes a wall and the well is disposed at the disposed proximate to the wall of the container (Figure 2).

Regarding claim 4, Opferkuch, Jr. et al. disclose where the surface is inclined (Figure 2).

Regarding claim 5, Opferkuch, Jr. et al. disclose where the surface is curved (container is cylindrical) (Figure 2).

Regarding claim 9, Opferkuch, Jr. et al. disclose an insert disposed at the bottom of a cup containing a fluid having suspended solid particles; a well non-centrally located within the insert; and an upper surface disposed on the insert and adapted to direct settling particles toward the well (Figure 2).

Regarding claim 10, Opferkuch, Jr. et al. disclose where the well is disposed proximate to an outer edge of the insert (Figure 2).

Regarding claim 11, Opferkuch, Jr. et al. disclose where the upper surface is curved (container is cylindrical) and inclined (Figure 2).

Regarding claim 12, Opferkuch, Jr. et al. disclose where the upper surface (facing the fluid) further includes a first curved surface and a second curved surface (facing away from the fluid) (Figure 2).

Regarding claim 15, Opferkuch, Jr. et al. where the first curved surface (facing the fluid) and the second curved surface (facing away from the fluid) each have a central axis inclined toward the well (Figure 2).

Regarding claim 16, Opferkuch, Jr. et al. disclose disposing the fluid within a cup (11) (Figure 2) and extracting a first sample of fluid from a well in a non-centrally located position (14) within the cup (Figure 2).

Regarding claim 17, Opferkuch, Jr. et al. disclose where the well is in a position proximate to a wall of the cup (Figure 2).

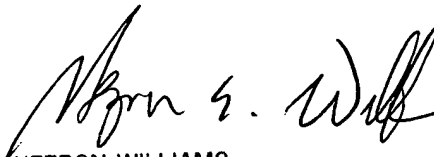
3. Claims 3,6-8,13,14 and 18-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to André K. Jackson whose telephone number is (571) 272-2196. The examiner can normally be reached on Mon.-Thurs. 7AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.J.

September 30, 2004

  
HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800